

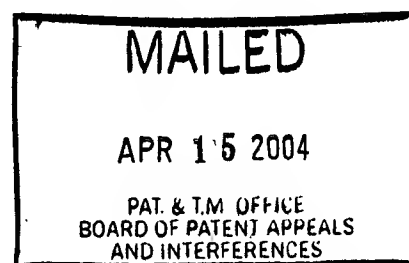
UNITED STATES PATENT AND TRADEMARK OFFICE

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Ex parte GEORGE KULT and SHARADHA VIJAY

Appeal No. 2002-1699
Application No. 09/096,939

ON BRIEF



Before THOMAS, GROSS, and BARRY, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

DECISION ON APPEAL

A patent examiner rejected claims 1-4 and 6-20. The appellants appeal therefrom under 35 U.S.C. § 134(a). We reverse.

BACKGROUND

The invention at issue on appeal concerns managing "resources" in a telecommunications network. (Spec. at 1.) "[R]esources are sources of assistance in performing functions needed to process calls." (*Id.* at 2.)

Conventionally, explain the appellants, "information about resources is handled in a non-standard, decentralized manner." (*Id.* at 3.) More specifically, all information about a particular resource is stored and managed only by that resource. (Appeal Br. at 7.) For example, information about the availability of a switch's processor is stored within the switch. Similarly, information about the processing capability of a computer is stored in a memory of the computer.

Furthermore, information about a particular resource is accessible only via an application program interface ("API") that the resource can understand. For example, to access information about the switch or the computer, an API that the switch or that the computer, respectively, can understand must be used. (Spec. at 3.) Accordingly, each time a requestor desires access to information concerning a particular resource, the requestor must create a query using an API understood by the resource and then transmit the query to the resource. (Appeal Br. at 7-8.)

In contrast, the appellants associate an individual resource manager with each resource being managed. Each resource manager includes a table of data related to its associated resource and to a generic API for acquiring data from the table. Because the APIs are generic, assert the appellants, a requestor can query resources without using a different API for each resource. (*Id.* at 8.)

A further understanding of the invention can be achieved by reading the following claim.

2. A method for managing resources within a network, comprising:

(i) sending a query to a resource manager, wherein said resource manager manages information corresponding to a resource, said resource manager complying with a common standard for resource managers within the network; and

(ii) managing data stored in memory and organized in table format using said query, including manipulating the data to reflect the current resource state;

wherein said data is one of:

semaphore data;
switch controller data;
agent data;
call data block data;
service logic program data; or
switch data.

Claims 1-4, 6-8, 10, 11, 15, 16, 18, and 19 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 5,937,042 ("Sofman"). Claim 9 stands rejected under 35 U.S.C. § 103(a) as obvious over Sofman and U.S. Patent No. 5,912,961 ("Taylor"). Claims 12-14 and 17 stand rejected under § 103(a) as obvious over Sofman and U.S. Patent No. 5,920,621 ("Gottlieb"). Claim 20 stands rejected under § 103(a) as obvious over Sofman and U.S. Patent No. 5,825,857 ("Reto").

OPINION

Our opinion addresses the claims in the following order:

- claims 1, 3, 4, 8, and 10-20
- claims 2, 6, and 7.

A. CLAIMS 1, 3, 4, 8, AND 10-20

Rather than reiterate the positions of the examiner or the appellants *in toto*, we address a point of contention therebetween. The examiner asserts, "the data granulator can be considered a resource manager which according to (column 18 lines 25-31) can use a standard query language (SQL), a computer language." (Examiner's Answer, § 11¹.) The appellants argue, "[a]t best, the internal functionality of data granulator 104 manipulates (col. 4, lines 36 - 39) data into a recent snapshot of network data for rehomeing optimizer 108 and not an API that accesses data from network data 102." (Appeal Br. at 18.) In addressing the point of contention, the Board conducts a two-step analysis. First, we construe claims at issue to determine their scope. Second, we determine whether the construed claims are anticipated or would have been obvious.

¹The examiner should number the pages of his examiner's answers.

1. CLAIM CONSTRUCTION

"Analysis begins with a key legal question -- *what* is the invention *claimed*?" *Panduit Corp. v. Dennison Mfg. Co.*, 810 F.2d 1561, 1567, 1 USPQ2d 1593, 1597 (Fed. Cir. 1987). "The general rule is, of course, that terms in the claim are to be given their ordinary and accustomed meaning." *Johnson Worldwide Assocs., Inc. v. Zebco Corp.*, 175 F.3d 985, 989, 50 USPQ2d 1607, 1610 (Fed. Cir. 1999) (citing *Renishaw PLC v. Marposs Societa Per Azioni*, 158 F.3d 1243, 1249, 48 USPQ2d 1117, 1121 (Fed. Cir. 1998); *York Prods., Inc. v. Central Tractor Farm & Family Ctr.*, 99 F.3d 1568, 1572, 40 USPQ2d 1619, 1622 (Fed. Cir. 1996)). "It is well settled that dictionaries provide evidence of a claim term's 'ordinary meaning.'" *Inverness Med. Switz. GmbH v. Warner Lambert Co.*, 309 F.3d 1365, 1369, 64 USPQ2d 1926, 1930 (Fed. Cir. 2002) (citing *Texas Digital Sys. Inc. v. Telegenix Inc.*, 308 F.3d 1193, 1202, 64 USPQ2d 1812, 1818 (Fed. Cir. 2002); *CCS Fitness, Inc. v. Brunswick Corp.*, 288 F.3d 1359, 1366, 62 USPQ2d 1658, 1662 (Fed. Cir. 2002)).

Here, independent claim 1 recites in pertinent part the following limitations: "one or more resource manager application program interfaces . . . manipulating the data to reflect the current resource state." Similarly, independent claim 3 recites in pertinent part the following limitations: "each of said plurality of application program interface means manipulating the data to reflect the current resource state." The ordinary

meaning of the term "application program interface" or "API" is "[a] set of routines that an application program uses to request and carry out lower-level services performed by a computer's operating system." *Microsoft Press Computer Dictionary* 24 (2d ed. 1994.) Giving the term its ordinary meaning, claims 1 and 3 require at least one set of routines that an application program uses to request and carry out lower-level services performed by a computer's operating system and to manipulate data to reflect the current state of a resource.

2. ANTICIPATION AND OBVIOUSNESS DETERMINATIONS

"Having construed the claim limitations at issue, we now compare the claims to the prior art to determine if the prior art anticipates those claims." *In re Cruciferous Sprout Litig.*, 301 F.3d 1343, 1349, 64 USPQ2d 1202, 1206 (Fed. Cir. 2002). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (citing *Structural Rubber Prods. Co. v. Park Rubber Co.*, 749 F.2d 707, 715, 223 USPQ 1264, 1270 (Fed. Cir. 1984); *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548, 220 USPQ 193, 198 (Fed. Cir. 1983); *Kalman v. Kimberly-Clark Corp.*, 713 F.2d 760, 771, 218 USPQ 781, 789 (Fed. Cir. 1983)). "[A]bsence from the reference of any claimed

element negates anticipation." *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 1571, 230 USPQ 81, 84 (Fed. Cir. 1986).

"In rejecting claims under 35 U.S.C. Section 103, the examiner bears the initial burden of presenting a *prima facie* case of obviousness." *In re Rijckaert*, 9 F.3d 1531, 1532, 28 USPQ2d 1955, 1956 (Fed. Cir. 1993) (citing *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992)). "A *prima facie* case of obviousness is established when the teachings from the prior art itself would . . . have suggested the claimed subject matter to a person of ordinary skill in the art." *In re Bell*, 991 F.2d 781, 783, 26 USPQ2d 1529, 1531 (Fed. Cir. 1993) (quoting *In re Rinehart*, 531 F.2d 1048, 1051, 189 USPQ 143, 147 (CCPA 1976)).

Here, Sofman discloses a "system for determining an optimal telecommunications network configuration." Col. 1, ll. 9-11. The system "includes a Data Granulator 104 which accesses network data 102 and builds switch and RCG² data into a Database 106. . . ." Col. 4, ll. 19-21. We are unpersuaded that the Data Granulator includes a set of routines that an application program uses to request and carry out lower-level services performed by a computer's operating system and to

²"An RCG is a group of circuits considered a logical indivisible entity in the process of rehomings." Col. 2, ll. 16-17.

manipulate data to reflect the current state of a resource. To the contrary, the passage cited by the examiner merely explains that "[t]he data granulator 104 creates at least four database tables, Switch data, RCG data, RCG to RCG traffic data and Distance data. The tables may be embodied as flat files or as normalized Standard Query Language (SQL) database tables." Col. 18, ll. 27-31.

Absent a showing that the Data Granulator includes a set of routines that an application program uses to request and carry out lower-level services performed by a computer's operating system and to manipulate data to reflect the current state of a resource, we are unpersuaded of a case of anticipation. Therefore, we reverse the anticipation rejection of claim 1; of claims 4 and 19, which depend therefrom; of claim 3; and of claims 8, 10, 11, 15, 16, and 18, which depend therefrom.

Furthermore, the examiner does not allege, let alone show, that the addition of Taylor, Gottlieb, or Reto cures the aforementioned deficiency of Sofman. Absent a teaching or suggestion of at least one set of routines that an application program uses to request and carry out lower-level services performed by a computer's operating system and to manipulate data to reflect the current state of a resource, we are unpersuaded of a *prima facie* case of obviousness. Therefore, we reverse the obviousness rejections of claims 9, 12-14, 17, and 20.

B. CLAIMS 2, 6, AND 7

The examiner asserts, "Sofman teaches . . . a resource manager (rehoming optimizer, 108) which can provide solutions in response to a user's query (questions) by calculating rehoming solutions for optimal network configurations." (Examiner's Answer, §10.2.) The appellants argue, "[n]othing in Sofman suggests that in the event that rehoming optimizer 108 detects stale data in database 106 it manipulates 'the data to reflect the current resource state.'" (Reply Br. at 21.)

1. CLAIM CONSTRUCTION

Independent claim 2 recites in pertinent part the following limitations: "sending a query to a resource manager, wherein said resource manager manages information corresponding to a resource, said resource manager complying with a common standard for resource managers within the network; and . . . managing data stored in memory and organized in table format using said query, including manipulating the data to reflect the current resource state. . . ." Giving the limitations their ordinary meaning, claim 2 requires using a query sent to a resource manager to manipulate data stored in a memory in a tabular format to reflect the current state of a resource.

2. ANTICIPATION DETERMINATION

Turning to the reference, Sofman's "[r]ehoming optimizer 108 interfaces with a user through an EUI. The user specifies cost objectives and constraints for focusing rehoming optimizer calculations." Col. 4, ll. 22-25. We are unpersuaded that the rehoming optimizer uses a query to manipulate data stored in a memory in a tabular format to reflect the current state of a resource. To the contrary, the "[r]ehoming optimizer 108 uses user input data together with data from database 106 to calculate rehoming solutions for optimal network configurations. Solutions are then presented and managed through the EUI of the rehoming optimizer." *Id.* at ll. 25-29. Rather than manipulating the contents of the database 106, we agree with the appellants that the "rehoming optimizer 108 is stuck with whatever data [are] available in database 106." (Reply Br. at 21.)


Absent a showing that the rehoming optimizer uses a query to manipulate data stored in a memory in a tabular format to reflect the current state of a resource, we are unpersuaded of a case of anticipation. Therefore, we reverse the anticipation rejection of claim 2 and of claims 6 and 7, which depend therefrom.

CONCLUSION

In summary, the rejection of claims 1-4, 6-8, 10, 11, 15, 16, 18, and 19 under § 102(e) is reversed. The rejections of claims 9, 12-14, 17, and 20 under § 103(a) are also reversed.

JAMES D. THOMAS
Administrative Patent Judge

Anita Pellman Gross
ANITA PELLMAN GROSS
Administrative Patent Judge


LANCE LEONARD BARRY
Administrative Patent Judge

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